



**6712-01**

## **FEDERAL COMMUNICATIONS COMMISSION**

### **Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) <mailto:PRA@fcc.gov> and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov) <mailto:Cathy.Williams@fcc.gov>.

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

## **SUPPLEMENTARY INFORMATION**

**OMB Control Number:** 3060-0995

**Title:** Section 1.2105, Bidding Application and Certification Procedures; Prohibition of Certain Communications.

**Form No.:** N/A.

**Type of Review:** Extension of a currently approved collection.

**Respondents:** Business or other for-profit entities, Not-for-profit institutions, and State, local or Tribal government.

**Number of Respondents:** 10 respondents; 10 responses.

**Estimated Time per Response:** 1.5 hours to 2 hours.

**Frequency of Response:** On occasion reporting requirement.

**Obligation to Respond:** Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i) and 309(j).

**Total Annual Burden:** 50 hours.

**Total Annual Cost:** \$9,000.

**Nature and Extent of Confidentiality:** The Commission is not requesting that the respondents submit confidential information to the Commission. If the Commission requests applicants to submit information that the respondents believe is confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

**Privacy Act Impact Assessment:** N/A.

**Needs and Uses:** The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance from them. The Commission is requesting an extension (no change in the reporting requirements) of this information collection. There is no change in the Commission's burden estimates.

Subject to certain exceptions, section 1.2105(c) of the Commission's rules prohibits auction applicants that are eligible to bid on any of the same geographic areas from cooperating or collaborating with respect to, discussing or disclosing to each other in any manner the substance of their bids or bidding strategies from the short-form application filing deadline to the post-

auction down payment deadline, unless such applicants are members of a bidding consortium or other joint bidding agreement reported on their short-form applications.

The Commission has found that even when a communication of bids or bidding strategies is limited to one applicant's bids or bidding strategies, it may unfairly disadvantage the other bidders in the market by creating an asymmetry of information. Section 1.2105(c)(1) of the Commission's rules attempts to address this concern by prohibiting auction applicants from communicating their bids or bidding strategies to each other. In enforcing Section 1.2105(c)(1), however, the Commission has encountered auction applicants engaging in communications prohibited by the rule. In some instances, there has been concern expressed about the obligation of a bidder to report information received from another bidder that potentially violates the rule, and the Commission has previously counseled applicants on the safest course of action for a recipient of a prohibited communication during the period in which Section 1.2105(c)(1) prohibitions are in effect would be to terminate the discussion and promptly report communication to the Commission. The Commission believes that the anti-collusion rule to include such a reporting requirement, as a deterrent to would-be disseminators of prohibited information regarding bids or bidding strategies, will make clear the responsibility to report such behavior and will thereby enhance the competitiveness and fairness of its spectrum auctions. Under the amendment the Commission adopted in the Seventh Report and Order, an applicant's failure to report a prohibited communication pursuant to Section 1.2105(c) may constitute a rule violation distinct from any act of collusion that violates Section 1.2105(c)(1).

The information requirement will enable the Commission to ensure that no bidder gains an unfair advantage over other bidders in its spectrum auctions and thus enhance the competitiveness and fairness of its auctions. The information collected will be reviewed, and if warranted, referred to

the Commission's Enforcement Bureau for possible investigation and administrative action. The Commission may also refer allegations of anticompetitive auction conduct to the Department of Justice (DoJ) for investigation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

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